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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/190,887	11/12/1998	MICHEL J. N. CORMIER	ARC 2589 USCIP1	7176
27777	7590	01/12/2006	EXAMINER	
PHILIP S. JOHNSON JOHNSON & JOHNSON ONE JOHNSON & JOHNSON PLAZA NEW BRUNSWICK, NJ 08933-7003			SHIBUYA, MARK LANCE	
			ART UNIT	PAPER NUMBER
			1639	

DATE MAILED: 01/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



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09/190,887

11/12/1998

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ARC 2589 US CIP 1

EXAMINER

Shibuya

ART UNIT	PAPER
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DATE MAILED:

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Commissioner for Patents

Please see attached communication.

  
PADMASHRI PONNALURI  
PRIMARY EXAMINER

***Response to Amendment***

The reply filed on 10/10/2005 is not fully responsive to the prior Office Action because: As stated in the Office communication, mailed 9/16/2005, the claims as amended are directed to an invention that is independent or distinct from the invention originally claimed.

Applicant, in the amendments to the claims filed 10/10/2005, has amended the claims so that they no longer recite the term "device"; as for example, in the preamble of claim 1. However, the amended claims continue to recite a new limitation to a reservoir containing the aqueous solution of the elected invention. The claimed reservoir serves to cause pH drift in the aqueous solution. Thus the reservoir of claim 1 functions to change the structure of the aqueous solution. Furthermore, claim 21, for example, introduces two reservoirs: a cathodic reservoir and an anodic reservoir. The cathodic and anodic reservoirs differently change the pl of the peptides in their respectively contained aqueous solutions. Thus the amended claims result in two aqueous solutions, which differ from each other by virtue of the cathodic or anodic nature of their respective reservoirs. Plainly, even though applicant has amended the claim preambles to recite compositions, in actuality, the claims continue to be drawn to devices that are reservoirs which function in transdermal electrotransport delivery.

Thus amended claims 1-8, 21-23 and new claims 35-39 are directed to an invention that is independent or distinct from the invention originally claimed. The newly amended and newly submitted claims remain drawn to devices for transdermal

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electrotransport delivery, even though applicant has replaced the term "device" with the term "composition".

Therefore, the claims require new search in prior art areas not required for the elected invention. Applicant's amendment to the claims impermissibly shifts from the elected Group I composition invention to the nonelected Group II device invention.

Furthermore, since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, applicant's amendment is not fully responsive to the prior Office Action. See 37 CFR 1.142(b) and MPEP § 821.03.

Since the period for reply set forth in the prior Office action has expired, this application will become abandoned unless applicant corrects the deficiency and obtains an extension of time under 37 CFR 1.136(a).

The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. In no case may an applicant reply outside the SIX (6) MONTH statutory period or obtain an extension for more than FIVE (5) MONTHS beyond the date for reply set forth in an Office action. A fully responsive reply must be timely filed to avoid abandonment of this application.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark L. Shibuya whose telephone number is (571) 272-0806. The examiner can normally be reached on M-F, 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Wang can be reached on (571) 272-0811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
PADMASHRI PONNALURI  
PRIMARY EXAMINER

Mark L. Shibuya  
Examiner  
Art Unit 1639

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